

REMARKS

Claims 1-21, 23-35 and 71-78 are pending of which Claims 8-17, 25-31, 35 and 77-78 were withdrawn from consideration. Claims 1-7, 18-21, 23, 32-34, and 71-76 were rejected and Claim 24 allowed and Claims 34, 75, and 76 objected to, but were indicated as being allowable if placed in independent form. Claims 6, 18, 20, and 23 have been amended and Claims 1-5 cancelled. No new matter has been added.

Claim Rejections – 35 U.S.C. §102

Claims 18, 32, 33, and 71 and 72 were rejected under 35 U.S.C. §102(b) as being anticipated by Weber et al. (6,364,487) ("Weber"). Reconsideration is requested.

Claim 18 has been amended to recite "a means for randomizing coupled to the active region and the non-absorbing polarizer" by which Applicant intends to invoke 35 U.S.C. §112, paragraph 6. Moreover, Claim 18 recites "the means for randomizing positioned to receive light emitted from the active region before the light is received by the non-absorbing polarizer and to receive light reflected from the non-absorbing polarizer". Claim 71 recites a "randomizing element positioned to receive light emitted from light emitting diode and reflected from the non-absorbing polarizer". In other words, the means for randomizing (randomizing element in Claim 71) is between the active region (light emitting diode in Claim 71) and the non-absorbing polarizer.

Weber, on the other hand, teaches that "scatter and reflection at the source" is responsible for "partial changes" to the polarization of the light that is reflected back by the DBEF 83. Col. 4, lines 55-60. "The source" referred to in Weber includes the "LED or other light source 81" (col. 4, lines 51-53). Accordingly, to the extent that the Examiner believes "the source" in Weber is the same as the recited "randomizing element" Weber does not teach or suggest that "the source" is "positioned to receive light emitted from the active region before the light is received by the non-absorbing polarizer".

In the Response to Arguments section, the Examiner now takes the position that the concentrator 82 is the randomizing element that is "positioned between the light source 81 and the polarizer 83." Applicant respectfully disagrees with the Examiner's interpretation. As discussed above, Weber explicitly states at col. 5, lines 55-60 that the "[t]he polarization of the reflected light partially changes due to scatter and reflection at the source". Col. 4,

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lines 55-60. The concentrator 82 does not scatter the light, but instead, as its name implies concentrates the light.

Additionally, Applicant points out that Claim 26, which depends from Claim 18 but was withdrawn due to a Restriction Requirement, recites that the apparatus further comprises a compound parabolic concentrator. Thus, the randomizing element recited in Claim 18 must be something other than the concentrator, which is explicitly recited in Claim 26.

Accordingly, Weber's concentrator 82 is not the same as the claimed randomizing element.

In the Response to Arguments, the Examiner also comments that "all physical structures randomize light to some degree" and that "Light from these stars passes through air (a physical structure). The air randomizes the light passing through it causing the stars to appear to twinkle." First, Applicant points out that Claims 18 and 71 recite that "the means for randomizing element (randomizing element in Claim 71) at least partially randomizes the polarization state of the light" and that the non-absorbing polarizer and means for randomizing (randomizing element in Claim 71) are "configured to preserve the overall radiance of the light transmitted by the non-absorbing polarizer" with respect to the emitted light. Applicant submits that the twinkling of star light is caused by turbulence in the atmosphere that causes refraction, not a randomizing of the polarization state of the light. Moreover, to the extent that the Examiner is suggesting that air is the randomizing element in Weber's disclosure, there is no disclosure that the non-absorbing polarizer and "air" in Weber are "configured to preserve the overall radiance of the light".

Additionally, Claim 18 has been amended to recite "means for randomizing", which pursuant to §112, paragraph 6 is "construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof".

Accordingly, Applicant submits that Claims 18 and 71 are patentable over Weber for at least the reasons discussed above. Claims 32 and 33 and Claim 72 depend from Claim 18 and Claim 71 respectively, and are therefore patentable for at least the same reasons. Reconsideration and withdrawal of this rejection is respectfully requested.

Claim Rejections – 35 U.S.C. §103

Claims 19-21, 23, 73, and 74 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weber in view of Weindorf et al. (2002/0140880) ("Weindorf"). Reconsideration is requested.

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Applicant notes that Claims 19-21 and Claims 73 and 74 depend from respective Claims 18 and 71, discussed above. Weindorf fails to make up for the deficiency of Weber. Accordingly, Applicant submits that Claim 19-21 and 73-74 are allowable for at least the same reasons as Claims 18 and 71, respectively. Reconsideration and withdrawal of this rejection is respectfully requested.

Per the Examiner's request, Applicant has amended Claim 23 to read as if originally filed Claim 23 was amended into independent form using a "straightforward 'cut and paste' amendment". As indicated by the Examiner in the Office Action dated December 15, 2005, and in the Response to Arguments in the present Office Action, Applicant submits that Claim 23 is now allowable.

Claims 1-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Niwa et al. (2002/0031153) ("Niwa) in view of Weindorf. Claims 1-5 have been cancelled.

Claims 6 and 7 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Niwa in view of Weindorf and further in view of Weber et al. (2001/0036083)) ("Weber '083"). Reconsideration is requested.

Claim 6 has been placed in independent form by incorporating the subject matter of Claim 1.

Applicant points out that Claim 6 recites "a polarizing beamsplitter ... wherein the polarizing beamsplitter combines the light having a first polarization orientation and the light having a second polarization orientation", while Claim 7 recites "the first polarization orientation is orthogonal to the second polarization orientation".

The Examiner stated that Weber '083 discloses "two or more non-absorbing polarizers 54 coupled to light emitting diodes c1 through cn-1 (the non-absorbing polarizers 54 transmitting light having polarizations orientations that are orthogonal to each other with a polarizing beamsplitter 55) to combine light having a first polarization orientation and light having a second, orthogonal polarization orientation. Note figure 1 and paragraph 0015 of Weber et al."

As submitted in the Applicant's previous response and not addressed by the Examiner in the current Office Action, there appears to be no such disclosure in Weber '083. In fact, Weber '083 discloses the use of dichroic beam splitters and not non-absorbing polarizers.

See, paragraph [0010] and [0015]. For example, Weber '083 states "The present invention overcomes these problems by combining the output of a number of LED arrays using dichroic beam splitters" and that "Beam splitter 54 is chosen such that it reflects light around the spectral maximum of array 52 and transmits light of all other visible wavelengths". Paragraph [0015].

Accordingly, contrary to the Examiner's statement, Applicant submits that Weber '083 does not teach or suggest "two or more non-absorbing polarizers 54". Thus, even with the Examiner's proposed combination of all three references, all of the elements of Claims 6 and 7 are still not disclosed. Thus, Applicant submits that Claims 6 and 7 are patentable for at least these reasons. Reconsideration and withdrawal of this rejection is respectfully requested.

Applicant's attorney notes that the Examiner made several statements in the Response to Arguments regarding purported admissions by Applicant along with characterizations of Applicant's arguments. Applicant will not address these statements, other than to say that Applicant does not acquiesce in the Examiner's statements or his conclusions and that Applicant believes the statements made are clear on the record and stand on their own.

Claims 6, 18, 20, and 23 have been amended and Claims 1-5 cancelled, leaving Claims 6-21, 23-35 and 71-78 remain pending of which Claims 8-17, 25-31, 35 and 77-78 are withdrawn from consideration. For the above reasons, Applicants respectfully request allowance of Claims 6-21, 23-35 and 71-78. Should the Examiner have any questions concerning this response, the Examiner is invited to contact the undersigned.

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